Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Commission's Regulations	)	MM Docket No. 91-221
Governing Television Broadcasting	)	
	)	

TO: The Commission

COMMENTS OF PRESS BROADCASTING COMPANY, INC.

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May 17, 1995

1. Press Broadcasting Company, Inc. ("Press") hereby submits its Comments in response to the Further Notice of Proposed Rule Making ("FNPRM"), FCC 94-322, released January 17, 1995 in the above-captioned proceeding. In particular, Press wishes to address the Commission's proposals relative to relaxation of local ownership limits.

2. As Press has previously advised the Commission (in comments filed in this proceeding on August 24, 1992), Press is concerned that significant relaxation of existing limitations on local ownership of television broadcast facilities could be inimical to the local television industry and, ultimately, to the public interest. Nothing in the FNPRM alleviates Press' concern. Indeed, developments occurring in the broadcast industry during the intervening almost three years since Press' earlier comments have aggravated those concerns.

3. The proposed relaxation of local ownership, or "duopoly", limits appears to be premised on the notion that such relaxation will "increase broadcasters' long-term viability by enabling them to reap the benefits of 'economies of scale'" and may, as a result, increase "program diversity, variety and quality". FNPRM at ¶117. While it is true that, by availing themselves of economies of scale, <u>some</u> broadcasters might become more viable, as a practical matter the broadcasters who are likely to benefit from such relaxation are those who are already extremely viable.

4. This is because less restrictive local ownership rules will permit licensees who are already dominant in a particular market to acquire weaker stations in the same area. [1/] Thus, the dominant licensees will simply become more dominant. Certainly the Commission

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[1/] Of course, the "area" in which such common ownership might occur will depend on whether the Commission, as proposed, elects to prohibit common ownership of stations with overlapping Grade A contours, or whether it eliminates all local ownership limits (as is apparently being suggested by some).

cannot expect anything but that to happen: if a licensee is, under present circumstances, only marginally "viable", that licensee is not likely to be in a position to be willing or able to expand its ownership interests simply because the rules are relaxed. [2] The result, therefore, will almost inevitably be a lessening of local television ownership and a lessening of local television programming diversity. In view of the extraordinarily high value which the Commission -- and, indeed, the Congress and the judiciary -- have historically placed on programming diversity, sacrificing diversity in order to permit dominant licensees to become more dominant appears counterintuitive.

5. Further, once any consolidation of stations occurs in a given market, the competitive disadvantages faced by any remaining "independent" (i.e., stand-alone) station(s) will clearly be aggravated. After all, if an independent already must struggle uphill against other stations operating individually, if and when some of those stations begin to operate jointly and thereby realize the economic efficiencies anticipated by the Commission, the plight of the independent station (which enjoys no such efficiencies) will only be worsened, perhaps to the point where it will have to cease operation. Were that to occur, then programming diversity would be further reduced.

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[2] In view of this likely scenario, it is true that the value of even marginal independent television stations would likely go up, as the demand for such stations by dominant licensees newly freed to acquire them would increase. But such a limited potential increase in value of some stations cannot be seen to justify the risks described elsewhere herein. That is particularly true since, as Press understands it, television station values are already relatively high without the relaxation of local ownership limits, and there are no indications of which Press is aware that all, or even any significant portion of, the television broadcast industry is likely to go out of business absent such relaxation. And even if the values of stations do rise initially in response to relaxation of ownership limits, that increase will likely vanish by the time only one independent station remains in the market, since by that time, presumably, any license who wants to obtain a duopoly will have done so, leaving the last independent to compete with multi-station operators. In such a case, the value of that last independent station is not likely to be high.

6. To illustrate one of the potential adverse effects of increased common ownership at the local level, assume a given area comprising two adjoining markets. The various stations (each of which is owned independently of the others) in each market serve communities in the other market as well with Grade B (but not overlapping Grade A) signals. While some stations are better established than others (whether as a result of channel position, technical facilities, superior management, greater funding or whatever), all stations compete on a relatively level playing field. For example, in the acquisition of programming, each station is in a position to compete with all other stations to obtain programming with which it hopes to attract an audience.

7. Each station pays a price, negotiated by the station on the basis of the program's anticipated popularity, and airs the programming. [3/] If the programming fails to gain the audience acceptance projected by the station, the station has two choices: it can put the programming on the shelf and acquire replacement programming, or it can continue to air the programming and suffer the adverse ratings. Either way the station suffers: in the first case, the station ends up paying for programming which it does not use; in the second, the station ends up suffering poor ratings and, consequently, reduced attractiveness to advertisers.

8. But two (or more) stations operating jointly in the market pursuant to relaxed duopoly rules would not be similarly disadvantaged. If a particular program does not meet audience projections on one of the stations, it can be aired on the other station (which might be programmed for a more targeted audience). In other words, the licensee controlling more

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[3/] In this context, the price may be avails or a network affiliation or syndicated programming or cash or some combination of all of these.

than one station in a given area (including an area defined by overlapping Grade B contours) can juggle programming between or among its stations, and thereby enjoy a cost-averaging which is unavailable to the single station owner.

9. Because of this, the multiple station owner would almost invariably be in a position to outbid the single station owner for desirable programming. The single station owner would, as a result, be forced either to pay grossly exorbitant programming costs or, more likely, to resign itself to less desirable programming -- and, therefore, lower advertising revenues and a much less certain continued viability. Thus, while it may be possible (as posited in the FNPRM) that the price of video programming might decrease if local ownership limits were relaxed, FNRPM at ¶110, it is at least equally possible (and, in Press' view, more probable) that programming costs will remain the same, or even increase.

10. One other related factor to be considered in this connection is the extent to which a dominant multi-station licensee in a particular area also happens to own stations elsewhere in the country. Such licensees would likely be able to negotiate with program suppliers on a volume basis, i.e., securing programming for a relatively large number of stations in a single agreement. While that could be said to lead to lower programming costs for the multi-station licensee, that "decrease" would be completely illusory at the local level to the non-dominant, single-station licensee unable to "buy in bulk".

11. The gist of this aspect of the problem, then, is that multi-station operators will enjoy undue leverage in their ability to obtain from syndicators programming pursuant to long-term contracts: the playing field on which television broadcasters compete against each other will be dramatically slanted in favor of the multi-station operator. The single station operator will be at a substantial competitive disadvantage if forced to compete for

programming on such an uneven playing field.

12. Press notes that, in the three years since the issuance of the NPRM, the Commission has substantially relaxed local limits on radio ownership. The result, as might have been predicted, has been considerable consolidation of ownership, commencing in the larger markets, and only now filtering down to the mid-size and smaller markets, where the relief was most need and originally sought. [4] Press submits that, while not perfectly analogous, the radio industry may provide valuable empirical insights into the effects of deregulation of local ownership rules in the broadcasting industry. Unfortunately, as with any such far-reaching rule, those effects cannot be assessed over a short period. Fortunately, the "experiment" on the radio side has been underway for a number of years already, and some preliminary conclusions based thereon may be available in the not-too-distant future. [5]

13. Press suggests that, before the Commission undertakes substantial deregulation of local ownership limits regarding television broadcast stations, the Commission should, first, allow the equivalent deregulation of the radio industry to continue its course and, second, undertake a detailed analysis of the effects of <u>that</u> deregulatory program on the radio industry and the public interest. If, as Press fears, such deregulation turns out to have significant adverse effects, then even more aggravated and undesirable effects can be

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[4] The relaxation of the radio duopoly rules was in response to the effect of Docket No. 80-90, which created approximately 700 new FM stations, most in smaller markets which could ill-afford the resulting competition. In light of this, it is not clear why the radio duopoly relaxation was extended to large markets in the first place. Television, of course, has never suffered the imposition of any influx of competition even remotely to Docket No. 80-90.

[5] As noted, the available evidence relative to radio ownership and control indicates that, as might have been predicted, substantial consolidation <u>is</u> occurring on a broad scale, having started primarily in larger markets and, now, spreading to mid-size and smaller markets.

expected on the television side, where there are far fewer stations [6], each capable of reaching far larger audiences, than on the radio side. Deferring deregulation of local television ownership pending evaluation of the results of deregulation of local radio ownership could prove a valuable means of avoiding unnecessary and ill-advised disruption of the television industry.

14. Another source of empirical data in this area may be obtained from television local marketing agreements ("LMA's"). As the FNPRM recognizes, LMA's are presently utilized in the television industry (although the precise nature and extent of the arrangements involved may not be a matter of record with the Commission). Press suggests that the Commission may wish to use the existing, largely unregulated LMA situations as a point of observation from which the Commission may be able to make preliminary conclusions about the likely effects of market consolidation without first having etched deregulation of local ownership in stone in its rules. That is, by taking steps to monitor LMA situations, the Commission may gain valuable information which could help it refine its proposal for local ownership rules <u>before</u> it amends those rules. [7]

15. Press recognizes that, as demonstrated by the FNPRM, the Commission is

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[6] There are approximately 10,000 radio stations; by contrast, there are only approximately 1,100 television stations. Thus, any duopoly in television would lead to far greater concentration within that industry.

[7] Of course, LMA's themselves constitute a device which could potentially undermine local ownership limits. For that reason, Press suggests that the Commission take affirmative steps to apprise itself of the precise nature and extent of existing and future LMA's. At a minimum, such agreements should comply with statutory requirements (<u>e.g.</u>, 47 U.S.C. §310). If review of existing LMA's does not suggest any serious violation of the Communications Act or the Commission rules, or any serious market imbalance, it may be appropriate for the Commission to allow LMA's to remain in place, relatively unregulated, but still subject to careful monitoring by the Commission and the public. Such monitoring could provide information useful in the development of local ownership limits.

attempting to improve the competitive posture of television broadcasting in the present-day environment which features a plethora of video programming delivery systems. Obviously, deferring action (as Press suggests above) in order to gather more data does not appear consistent with the goal of immediate improvement. But in Press' view, the most immediately effective way of improving the competitive posture of over-the-air broadcast television, free to the public, would be the adoption of rules which would permit, and encourage, broadcasters to provide multi-channel services on their facilities. [8/] Press has previously submitted a Petition for Rule Making in which it advanced such a proposal. That Petition is incorporated herein by reference, and a copy is attached hereto. [9/]

16. Press acknowledges that the existing broadcast television industry is itself disadvantaged when it competes against other multi-channel video distribution systems. The Commission's proposals generally (and its duopoly proposal in particular) are supposedly designed to correct that disadvantage, at least in part. But those proposals would not help the industry as whole. Rather, as noted above, they would help only the more affluent members of the industry who would be in a position to expand their ownership interests and thereby realize the economic efficiencies which the Commission's proposals are designed to achieve. The resulting consolidation of interests would, as discussed above, effectively

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[8/] One option would be for the Commission to require leased channel access to any entity seeking to compete in a multi-channel environment (subject, of course, to the availability of adequate channel capacity and reasonable consideration flowing between the affected parties).

[9/] While Press' Petition was filed in August, 1992, and included as an attachment to Press' earlier comments in this very proceeding, it has seemingly fallen into a black hole at the Commission. To the best of Press' knowledge, its petition has not even been given an "RM" number, much less a notice of inquiry, a notice of proposed rule making, or any other formal acknowledgement that it is, or even may be, under consideration. In view of the focus of the FNPRM on factors underlying and affecting competition in the video programming delivery industry, and particularly the television broadcasting industry, Press submits that its Petition can and should be considered herein.

reduce the number of independent programming voices available to the public and likely reduce the actual number of voices available.

17. Any loss of, or reduction in, programming diversity should be avoided unless absolutely necessary. The Commission and the courts have repeatedly noted the overriding importance of diversity. Indeed, the goal of diversity was deemed so important as to override even the constitutional prohibition against racial discrimination. See Metro Broadcasting, Inc. v. FCC, 111 L.Ed. 445 (1990). Abandoning that goal is plainly undesirable and, under the circumstances, unwarranted. As discussed in Press' Petition for Rule Making, the disadvantages suffered by the broadcast television industry can be ameliorated through technological measures which will enhance not only the broadcast industry as a whole, but the level of program diversity available to the public as well.

18. Moreover, it will achieve these results while maintaining the existing competitive balance between and among existing television broadcasters. That is, unlike the Commission's duopoly proposal, Press' proposal would allow each existing television broadcaster to increase its program offerings in the same way as all other television broadcasters. Where, under the Commission's proposal, the strong would merely get stronger and the weak would merely get weaker (if they continued to survive at all), under Press' proposal all would have the opportunity to benefit identically. Essentially, Press' proposal seeks to assure that television broadcasters will still be able to compete on a level playing field, both against one another and against other video service providers. The goal is a television broadcast industry more competitive with other non-broadcast video distribution systems, but a television broadcast industry the internal competitive balance of which would be maintained for the benefit of the industry's members and, more importantly, for the

benefit of the viewing public.

19. By contrast, the Commission's proposal would constitute a giant step away from competition and competitive balance. Although couched in marketplace rhetoric, the Commission's proposal would lead inexorably (and, more than likely, promptly) to substantial consolidation of media control in the television broadcast industry. When that is coupled with developments in other related industries, one can easily envision a day in the very near future when, notwithstanding this country's vast resources of talent and industry, all media -- television, radio, cable, telephone -- will be controlled by a very small handful of large companies operating on a national basis. Such a result is by no means necessary: under present regulatory conditions, the television broadcast industry is thriving with a substantial number of competing participants. But if the Commission opts for deregulation of local ownership limits, wholesale consolidation, no matter how undesirable, may be unavoidable. Press urges the Commission to guard against such an eventuality.

Respectfully submitted,

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May 17, 1995

ATTACHMENT A

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FILE COPY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
PROPOSED CHANGES IN THE REGULATION OF	)	
BROADCAST TELEVISION IN LIGHT OF	)	MM DOCKET NO. ____
EXISTING AND ANTICIPATED FACTORS	)	
AFFECTING THE BROADCAST TELEVISION	)	
INDUSTRY	)	

TO: The Commission

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OFFICE OF THE SECRETARY

PETITION FOR RULE MAKING

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August 24, 1992

SUMMARY

In view of the overriding interest in preserving the availability of free, over-the-air broadcast television, Press Broadcasting Company, Inc. ("Press") hereby submits for the Commission's consideration a proposal which, in Press' view, would be far more effective than other alternatives presently under consideration for assuring the continued health of the television broadcast industry.

The proposal calls for the immediate adoption of rules and standards permitting television broadcasters to utilize digital compression technology to provide, on the second 6 MHz channel already allotted to them in connection with the Advanced Television ("ATV") rule making, multi-channel program services. Such digitally compressed multi-channel service would serve as a transitional device between conventional NTSC operation and ATV operation. Since compression technology is already available and substantially less expensive than ATV technology, implementation of compression can likely be accomplished quickly. The continued NTSC operation on each licensee's original channel would provide a revenue source to permit initiation of digitally compressed transmission services. Once such services themselves become established, they would in turn provide a revenue source to assist in the economically burdensome conversion to ATV.

In approaching the dilemma of the broadcast television industry, the Commission must act with vision and insight. Press' proposal offers such a visionary approach.

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1. Press Broadcasting Company, Inc. ("Press") hereby petitions the Commission to adopt rules and policies [1/], described below, designed to permit the broadcast television industry to continue to compete in the still-developing video services marketplace and, thus, to assure the continued availability to the public of over-the-air broadcast television service into the next century.

Introduction

2. As the Commission is aware, the future of over-the-air broadcast television available free to the viewing public is far from certain. Increased competition from a variety of alternative sources of video programming has substantially reduced broadcast television's once-dominant hold on America's viewers. Serious concern has been expressed about the viability of single-channel television broadcasting in an age of multi-channel competitors.

3. Of course, preservation of free over-the-air television remains a desirable goal. The Commission has clearly endorsed that view, and is considering at least several

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[1/] The proposals set forth herein implicate a number of regulatory areas, some of which are already the subject of on-going rule making proceedings. Since the instant proposals constitute a comprehensive, integrated overhaul of the existing regulatory structure for broadcast television, they are being presented in the context of an independent petition for rule making, rather than as separate proposals in separate, on-going proceedings. To the extent that these proposals may relate to such other proceedings, Press may submit comments therein in which this Petition is incorporated by reference.

regulatory mechanisms by which that goal might be achieved. [2/] In Press' view, however, the approaches proposed thus far by the Commission are somewhat misdirected, as they do not appear to realistically address the problem or to take maximum advantage of the technology available to reduce, if not correct, the problem. Indeed, at least some of the Commission's proposals (particularly those relating to relaxation of the multiple ownership and duopoly rules) would likely exacerbate, rather than amelioriate, the current plight of the television industry. [3/] The purpose

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[2/] Perhaps the most prominent examples of these efforts are proposals (1) to modify the multiple ownership rules governing television licensees, see MM Docket No. 91-221, and (2) to require provision of "high definition" service in the very near future, see MM Docket No. 87-268.

[3/] The Commission's proposed relaxation of its ownership rules is especially dangerous. Permitting common ownership of two or more television stations in a given market would permit the more affluent licensees in that market to gain a substantial, and perhaps destructive, competitive advantage over smaller and/or newer licensees. For example, under the existing regulatory scheme, each licensee has one station to program in a given market. If that licensee acquires programming which proves, for whatever reason, to be unpopular, the licensee has two choices: it can either continue to air the programming and suffer the resulting poor ratings (and poor advertising sales), or it can put that program on the shelf, absorb the cost of the program, and obtain and broadcast some alternative fare. But if, in a more relaxed regulatory environment, a single licensee controls two stations in a market, that licensee can average the cost of its programming over both stations, i.e., by airing the less popular programming on the second channel and thus avoiding a complete loss on it.

Because of this cost-averaging, a multi-station licensee can drive up program costs in the market (because it knows that it will be able to use virtually all of its programming regardless of public acceptance) and, as a result, jeoparize the survival of smaller, single-station licensees who do not enjoy the same ability to cushion against the potential need for additional programming. In other words, relaxation of the multiple ownership rules will aggravate existing competitive imbalances to the advantage of well-established stations and to the concomitant disadvantage of newer, less-established stations. The latter would, as a result, clearly

(continued...)

of this Petition is to suggest an alternative approach which encompasses certain essential elements of the Commission's current proposals, but which includes additional elements designed to assure and promote the continued vitality of broadcast television in the present and future competitive environments. In Press' view, its proposed broader approach affords a more realistic resolution of the matrix of technological and economic factors at issue here.

4. As matters presently stand, the Commission appears to be committed to the notion that each broadcast television licensee should provide a single program service to viewers. Admittedly, the Commission is taking steps to assure that such program service will be the most technologically advanced service possible (through the adoption of "advanced television" ("ATV"), or "high definition television", standards). But when the dust settles on the ATV proceeding, television broadcasters will still be left with the facilities to provide but a single service.

5. This is ironic, because in order to implement its ATV program the Commission has provided for pairing of television channels. It is therefore clear that for each broadcast television station presently in operation, a second broadcast

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3/ (...continued)
be at even greater risk of failure under such a relaxed regime than is already the case under the existing multiple ownership schema -- and the Commission is well aware of the precarious existence which many television stations are already suffering. But the loss of any licensee would diminish the available diversity of programming, a result which should obviously be avoided if some reasonable alternative is readily available. And any regulatory steps which increase the likelihood of licensee failures should similarly be avoided.

television channel in the same community is technically available. However, the Commission's present approach fails to take maximum advantage of the opportunities presented by that circumstance. Instead, the Commission is treating the second available channel as nothing more than a mechanism to facilitate transition from a single-channel conventional television system to a single-channel ATV system.

The Proposal

6. What Press proposes is the creation of a multi-channel over-the-air broadcast television service which would operate, initially, as a useful transition between conventional and ATV television service and, ultimately, as an independently viable supplement to ATV service. That is, we propose that the Commission allot, **immediately**, a second full 6 MHz television channel ("the Second Channel") for **immediate** use by each existing television licensee (or permittee [4/]), subject to the following considerations:

-- The Second Channel would have to be utilized for the transmission of two or more separate compressed digital television signals, while the other channel ("the First Channel") would remain dedicated to conventional NTSC service. The precise number of digital television signals which could be transmitted on the Second Channel is a technical matter which the Commission can resolve by adoption of appropriate technical standards in this Petition.

-- One of the two (or more) compressed signals on the Second Channel would be dedicated to simultaneous retransmission of the NTSC programming being broadcast

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[4/] A permittee would become eligible for a Second Channel only after the permittee had constructed its First Channel station and commenced operation pursuant to program test authority.

by the licensee on the First Channel, while the remaining compressed signal(s) would be utilized for almost [5/] **any** type of programming at all, without regard to conventional "renewal expectancy" considerations, since the licensee's NTSC operation on the First Channel (and, ultimately, its ATV operation) would, as a routine matter, continue to be subject to conventional public interest obligations. [6/]

-- Within some definite period (e.g., five-seven years), each licensee would have to convert one of its two 6 MHz television channels to provide an ATV service. Upon such activation, the licensee would be permitted to continue to operate the other channel as a source of multiple program services through the same compressed digital technology (with the proviso that one of those program services could also be transmitted in an ATV mode). Failure to convert one of the 6 MHz channels to

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5/ In the interest of promoting program diversity, we suggest that the use of the additional compressed signal(s) be initially limited as follows: no single licensee could transmit more than one of the existing national television networks (i.e., ABC, CBS, NBC, Fox) on any of its facilities within the same market, or no single licensee could provide more than one fully local, independent service. Television licensees would thus be encouraged to transmit other existing "network" television services already made widely available to the public by broadcast networks, cable systems and other multi-channel video providers (e.g., Arts and Entertainment, CNBC, Lifetime, MTV, ESPN, etc.), or similar services which might be developed in response to the likely increase in demand. Indeed, it is likely that broadcast networks seeking to generate new revenue streams may elect to provide a variety of new services to their existing affiliates and/or other broadcasters with excess channel capacity. We do not pretend in this document to begin to catalog all of the programming possibilities. Rather, the goal of Press' proposal is the establishment of a regulatory system which would encourage maximum programming diversity by maintaining maximum flexibility in the use of available channels.

The purpose of the initial restriction on channel use is to assure that, at least initially, the current balance of pre-existing broadcast programming among stations is maintained. These program restrictions would be removed upon inauguration of ATV service, at which time the licensee wold be permitted to use all of the compressed signals of its non-ATV channel as it sees fit.

6/ Each noncommercial licensee would also be given a second 6 MHz channel to program, although use of that Second Channel might not be necessarily restricted to noncommercial programming. For example, the Commission might allow noncommercial licensees (as well as commercial licensees) to lease to third parties any excess channel capacity in order to generate revenue.

ATV would result in the forfeiture of one channel. The advantages of this proposal are obvious: by incorporating the concept of multi-channel broadcast transmission based on digital compression, the proposal facilitates the otherwise jarring (and arguably unworkable) transition between current broadcast service and ATV service. Moreover, it provides over-the-air broadcasters with a multi-channel business with which to compete with other multi-channel systems both now and for the foreseeable future, thus enhancing the continued viability of the broadcast industry. And, perhaps most importantly, it is consistent with the Commission's statutory mandate to assure the efficient use of radio spectrum for the benefit of the public interest: by adopting this proposal, the Commission would be increasing by a factor of at least three times the number of over-the-air video broadcast services available to the viewing public within the portion of the spectrum presently allotted for over-the-air broadcast television.

7. Let us examine the various components of the proposal. We take as a given the proposition, propounded by the Commission in the ATV proceeding, that sufficient channel space is available provide each existing television licensee with an additional 6 MHz television channel. There appears to be minimal dispute, if any, about the correctness of that proposition.

8. We also take as a given that available technology would permit the compression of at least two, and possibly three or more, digital television signals for transmission on a given 6 MHz channel with no significant degradation of signal quality.

Such compression techniques are already in use in some areas (notably the cable television industry) and, according to press reports, are currently being tested by broadcast networks and satellite companies. Admittedly, the Commission's rules do not presently provide for such transmission on broadcast stations. Nevertheless, development and adoption of standards for such digital compression should be assigned the highest priority for purposes of this proposal. Such standards would be of use to conventional broadcasters, cable and satellite operators and, ultimately, ATV broadcasters: ideally, the standard to be adopted by the Commission would lead to the availability of standardized receiving equipment to be used and useable for **all** available video services. Since, as noted, digital compression technology is already in place in certain parts of the video marketplace, it is likely that consensus on the governing technical standards (which would be applicable to broadcast, cable and satellite operators) could be reached quickly. Such prompt adoption by the Commission of nationwide standards for compressed transmission, and the widespread (if not universal) demand for standardized receivers, would provide valuable impetus to the receiver industry to respond with commercially-available digital decoders very shortly after adoption of the standards. We anticipate that such decoders would be compatible with standards, to be adopted by the Commission, governing ATV compression.

9. Under the Commission's existing ATV transition plan, all television licensees will be required to shift over to ATV service within approximately five years. That transition

will require an enormous capital investment with little hope of recoupment in the short run (or, conceivably, the long run). After all, just because licensees have paid substantial sums for ATV equipment does not mean that advertisers will necessarily be willing to pay more for advertising time, particularly since it is unclear how long it will take the public to acquire ATV receivers in large enough numbers to make advertising on ATV stations even roughly as effective as advertising on existing NTSC stations. And public acceptance of ATV receivers will also be affected by the availability and cost of such receivers, and the apparent desirability of receiving ATV service. This last factor is especially significant, since abrupt conversion to ATV service will also be plagued by a likely shortage of programming product ready for ATV transmission. [7/] In other words, while it is nice to believe that simply mandating ATV service will assure its success, there are compelling reasons to believe that success is far from assured, at least in the near-term. Indeed, as the Commission's ATV roll-out plan is presently structured, the huge investment and limited returns which can be expected could seriously erode the foundation of the over-the-air television industry.

[7/] With the possible exception of certain film products, the vast majority of programming currently available for transmission is in NTSC format. In our view it will be years before a significant quantity of ATV-formatted programming will be available for the thousands of ATV stations contemplated by the Commission's current regulatory approach to ATV conversion. Our proposal would permit, indeed encourage, the continued provision of at least two NTSC-based video services on compressed channels during the likely years-long development of an adequate supply of ATV programming.

10. Press' proposal would provide a useful buffer between conventional and ATV service which would reduce, if not eliminate, that likely erosion. The ability to provide digitally-compressed multi-channel programming receivable on existing conventional receivers (albeit with a decoding mechanism) would afford broadcasters the opportunity to compete on a more equitable basis, and possibly even cooperate, with existing multi-channel program providers. [8/] To the extent that the introduction of this new multi-channel option might take some time to develop public acceptance, each licensee's continuing NTSC programming on its First Channel would provide the revenue stream necessary for the viability of the licensee. This use of an existing technology to subsidize, in effect, a developing technology is not unprecedented. Much the same approach was taken when the FM radio service was still new and, for the most part, unaccepted by the public. The Commission permitted common ownership of FM stations by owners of the then-dominant radio medium, AM stations, in an effort to foster FM development. Even a cursory review of the present-day radio industry reveals how successful that strategy ultimately proved to be.

11. And public acceptance of the new video option would likely not be long in coming: substantial portions of the public are already familiar with some of the program services

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[8/] Far from threatening other multi-channel providers, Press' proposal would create a healthier competitive video environment which could encourage, inter alia, mutually beneficial strategic alliances between and among various types of providers (including cable systems, broadcast networks, other programming sources, etc.) to the ultimate benefit of the viewing public.

which would likely be available, and the public could therefore be expected to embrace an alternate delivery system for that programming, particularly if that alternate delivery system were priced competitively vis-à-vis existing delivery systems. Moreover, the likelihood of prompt public acceptance of the new video option would be increased by the fact that broadcasters are -- and have been since the beginning of broadcast television service -- by their very nature directly attuned to the needs and interests of their local audiences. Broadcasters could be expected to rely on that sensitivity to local needs and interests in the design and implementation of their new video services.

12. Additionally, a transitional step into a digitally-compressed multi-channel mode would make economic sense for broadcasters. The necessary equipment would certainly cost appreciably less than that which would be necessary for a top-to-bottom conversion to ATV. Thus, it would not require the assumption of any huge debt service just to get started. Additionally, digital compression and transmission equipment could conceivably be utilized in an ATV environment as well. In that respect, the acquisition of such equipment could be viewed as prudent preparation for the advent of ATV, and not wasteful acquisition of soon-to-be-obsolescent gear.

13. And perhaps most important in the economic context, once the digitally-compressed multi-channel broadcast service gains public acceptance, it will provide a solid additional revenue stream to the broadcast industry, an additional revenue stream which would immeasurably assist in the

transition to ATV. While the pool of available advertising revenues might be relatively stable when the multi-channel service is first introduced, the ability to "narrowcast" on the various channels would likely broaden that pool to include advertisers previously unwilling to spend substantial funds to reach a large audience, but now willing and able to reach far more targeted audiences. In other words, the likelihood of an increased revenue stream for broadcasters would be enhanced by the "narrowcasting" potential of multi-channel service.

14. Press envisions for the television broadcast market a scenario similar to the development of FM radio. In the earliest days of FM, the Commmission concluded that it would be appropriate, in order to encourage the fledgling FM service, to permit existing AM broadcasters to obtain FM licenses. The idea, of course, was to permit the then-healthy AM service to, in effect, subsidize the new FM service. Press' proposal is based on the same concept applied doubly: first, the existing NTSC television service on the First Channel will assist in subsidizing the multi-channel service and, second, once it begins to produce the anticipated revenues, the multi-channel service will assist in subsidizing the ATV service. This approach appears to Press to be far more sensible -- and far more likely to succeed -- than the Commission's present plan, which calls for an economically onerous conversion to ATV without any possibility of intervening development of supplemental revenues with which to pay for that conversion.

15. From the public interest perspective, this